

CHAPTER 22
ALTERNATIVE VOTING SYSTEMS

[Prior to 7/13/88, see Secretary of State[750] Ch 10]

TESTING AND EXAMINATION OF VOTING EQUIPMENT

721—22.1(52) Definitions for certification of voting equipment.

“Accredited independent test authority” means a person or agency that is formally recognized by the National Association of State Election Directors as competent to design and perform qualification tests for voting system hardware and software.

“Certification” means formal approval of voting machines or electronic voting equipment for use in Iowa pursuant to Iowa Code sections 52.5, 52.7 and 52.26.

“Examiners” means the board of examiners for voting machines and electronic voting systems described in Iowa Code section 52.4.

“Qualification test” means the examination and testing of an electronic voting system by an independent test authority using Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Systems, as adopted by the Federal Election Commission January 25, 1990, and as amended April 1990, to determine if the system complies with those standards.

“Vendor” means a person or representative of a person owning or being interested in a voting machine or electronic voting system seeking certification of the equipment for use in elections in Iowa.

“Voting booth” means an enclosure designed to be used by a voter while marking a paper ballot, special paper ballot or ballot card.

“Voting equipment” means voting machines and electronic voting systems which are required by Iowa Code sections 52.5, 52.7, and 52.26 to be approved for use by the examiners.

721—22.2(52) Voting system standards. All electronic voting systems and machines approved for use by the Board of Examiners after December 31, 1997, shall meet Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Systems, as adopted by the Federal Election Commission January 25, 1990, and as amended April 1990. The report of an accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.

This rule is intended to implement Iowa Code section 52.5.

721—22.3(52) Examiners. The examiners annually shall elect a chairperson. All three examiners must be present for any formal action. Approval by two of the three examiners is required to approve any action to be taken by the examiners.

22.3(1) Notice of the time and place of any meeting by the board of examiners must be published pursuant to Iowa Code section 21.4.

22.3(2) Meetings of the examiners are open to the public, except that closed meetings may be held as permitted by Iowa Code section 21.5.

22.3(3) Correspondence and materials required to be filed with the Board of Examiners shall be addressed to the examiners in care of the Elections Division, Office of the Secretary of State, Second Floor, Hoover Building, Des Moines, Iowa 50319.

721—22.4(52) Fees and expenses paid to the examiners.

22.4(1) The examiners shall be reimbursed for travel to and from the meeting place at the rate specified in Iowa Code section 70A.9. The examiners shall also be reimbursed for actual expenses for meals and lodging, if necessary.

a. If the meeting was called for the purpose of examining, reexamining, testing, or discussing the certification of voting equipment offered by a vendor, the examiners' expenses shall be paid by the vendor within seven days following the completion of the examination and testing of the voting equipment.

b. If the meeting was called for the purpose of advising the secretary of state regarding administrative rules for the examiners, or to hear complaints or requests for decertification of voting equipment, or any other business of interest to the examiners, the expenses shall be paid by the secretary of state.

22.4(2) The vendor shall pay the examiners the amount of compensation specified in Iowa Code section 52.6 at the beginning of each meeting for which compensation is required to be provided to the examiners. The fee shall be paid as follows:

a. For each meeting or series of meetings held for the purpose of certifying a voting machine, electronic voting system or voting booth.

b. For each meeting or series of meetings for reconsideration of a voting machine, electronic voting system or voting booth after denial of certification.

c. If the examiners schedule examinations of voting booths offered by more than one vendor at a single meeting, the fee shall be divided equally among the vendors.

d. The examiners shall waive the examination fee if a voting booth is submitted for examination by a county commissioner of elections pursuant to rule 22.19(52).

This rule is intended to implement Iowa Code sections 17A.19, 49.25(3), 52.5, 52.6, and 52.26.

721—22.5(52) Examination of voting equipment—application. Any vendor who wishes to apply for certification of voting equipment for use in the state of Iowa shall apply to the secretary of state for an appointment with the examiners. The application shall include five copies of each of the following:

22.5(1) History of the equipment to be examined. This history shall include a complete description of the equipment to be examined, descriptions of any previous models of the equipment, the date the system to be examined went into production, and a complete list of jurisdictions which have used the equipment. The user list shall include jurisdictions which used the equipment experimentally without purchasing it, jurisdictions which purchased earlier versions of the equipment to be examined, and jurisdictions which purchased the current version of the equipment to be examined.

22.5(2) Copies of all manuals developed for use with the system including, but not limited to, technical manuals for repair and maintenance of the equipment, operations manuals for election officials, printer's manuals for ballot production, and any other written documents prepared by the vendor that describe the operation, use, and maintenance of the machine.

22.5(3) Report of an accredited independent test authority certifying that the system is in compliance with the Federal Election Commission's Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Systems. Copies of these reports are confidential records as defined by Iowa Code section 22.7 and Iowa Code chapter 550. Independent test authority reports shall be available to the secretary of state, deputy secretary of state, director of elections, and any other person designated by the secretary of state to have a bona fide need to review the report. No other person shall have access to the reports and no copies shall be made. All independent test authority reports shall be marked "CONFIDENTIAL" and shall also be accompanied by a list of those persons who are authorized to examine the report. The reports shall be kept in a locked cabinet.

22.5(4) Copies of the reports of any test authority who has examined the equipment in conjunction with certification requirements of other states.

22.5(5) Reports of the certifying authorities of any other states that have examined the equipment, whether or not the equipment was approved for use.

22.5(6) Brochures, photographs and advertising material used to encourage sales of the equipment.

22.5(7) Manuals for the use and maintenance of any components of the equipment that are not manufactured by the vendor.

22.5(8) Descriptions of the equipment including the methods used to comply with the requirements of Iowa Code section 52.7, if the equipment to be examined is a voting machine, or Iowa Code section 52.26, if it is an electronic voting system.

22.5(9) Reserved.

22.5(10) Request for examination and test. The following form shall be filed with the materials required above:

STATE OF IOWA
REQUEST FOR EXAMINATION AND TEST
BY THE BOARD OF EXAMINERS FOR VOTING MACHINES
AND ELECTRONIC VOTING SYSTEMS

Equipment to be examined, including name, model number, and version numbers for hardware and software: _____

Date this version became available for purchase: _____

Vendor: _____

Address: _____

City, State, Zip: _____

Telephone number: _____ Fax number: _____

Person to contact: _____ Title: _____

Type of equipment (check one):

- ☐ Voting machine (mechanical)
- ☐ Voting machine (direct recording electronic)
- ☐ Electronic voting system (precinct count)
- ☐ Electronic voting system (central count)

I request that the Iowa Board of Examiners for Voting Machines and Electronic Voting Systems examine and test the equipment described above and in the attached documents for the purpose of determining whether this equipment will be certified for use in the State of Iowa. I will pay the costs of this examination, including the examiners' fees and expenses. I understand that the examiners' fee of one hundred fifty dollars (\$150) each is to be paid before the examination begins.

I will also pay the fees of any consultants employed by the examiners to assist in the evaluation of the equipment and to advise the examiners as to the sufficiency of the equipment. I understand that I have the right to suggest the names of reliable independent test authorities to the examiners and may decline to submit the equipment to the examination of an individual for good reason.

I understand that a production model of the equipment submitted for certification shall be made available to the examiners and their consultant, if any.

I agree to submit this equipment for further examination if any changes are made following its approval for use. I understand that certification will be denied or rescinded if the examiners determine that this voting equipment does not meet the requirements of the Code of Iowa and Iowa Administrative Code.

I understand that voting machines or voting systems that have not been approved by the examiners cannot be used at any election in the State of Iowa.

Signed: _____

Title: _____

State of _____

County of _____

Signed and sworn to (or affirmed) before me on _____ (Date)

by _____ .

NOTARY PUBLIC (or title of other officer
authorized to perform notarial acts)

721—22.6(52) Review of application by examiners. Upon receipt of the application, the secretary of state shall immediately forward copies of the application to each of the examiners. The examiners shall review the application and within seven days a date shall be set for the examiners to meet and examine the equipment. If additional information is needed by the examiners, they may delay setting a date for the examination pending the submission of the requested materials.

721—22.7(52) Consultant. If the examiners determine that a consultant is necessary to determine whether a system meets the requirements of Iowa law, they shall notify the vendor of the decision. The vendor may suggest the names of reliable independent test authorities to the examiners and may decline to submit the equipment to the examination of an individual for good reason.

A consultant shall be employed if no other state has certified the equipment for use. The examiners may require a consultant if the equipment has been modified following certification by other states, or if the examiners believe it to be necessary.

If a test authority has been determined to be necessary by the examiners and a suitable consultant cannot be agreed upon by the examiners and the vendor, the equipment shall not be approved for use.

721—22.8(52) Contact other users. The examiners shall contact a representative sample of the users of the equipment to determine the nature of the experience of other users.

721—22.9(52) Testing the equipment. The vendor shall provide to the examiners one, or more, if deemed necessary by the examiners, production models of the equipment submitted for certification. The equipment shall be prepared by the examiners with the aid of the vendor to be tested at two sample elections: a sample partisan primary election, and a sample general election.

22.9(1) Test county for central count systems. Voting equipment which is designed to be used for tabulation of ballots at a counting center pursuant to Iowa Code section 52.34 shall be tested using a model county consisting of 155 precincts, with 180,000 registered voters. The county shall include one U.S. Congressional District, five state senate districts, 11 state house of representatives districts, and 30 townships. Each township shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

22.9(2) Test county for absentee systems. Voting equipment which is designed to be used for tabulation of absentee ballots only shall be tested using a model county consisting of 155 precincts, with 180,000 registered voters. The county shall include one U.S. Congressional District, five state senate districts, 11 state house of representatives districts, and 30 townships. Each township shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

22.9(3) Test precinct for precinct count systems. The test precinct shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

22.9(4) All requirements for preparation and printing of test ballots shall be met in the preparation of ballots for the test elections including, but not limited to, rotation of candidates' names and the provision of space for write-in votes.

22.9(5) Test ballots provided by vendor. The vendor shall provide the ballots to be used in the testing of the equipment. A total of at least 2000 ballots shall be printed for each of the two test elections. One thousand ballots for each test election shall be marked and manually tabulated by the vendor to use as a test of the ability to tabulate results accurately. The balance of the ballots shall be delivered to the examiners before the date set for the examination. The examiners shall mark and manually tabulate an additional set of at least 300 test ballots.

721—22.10(52) Test primary election for three political parties.

22.10(1) *Closed primary election.* Voters may only cast votes for the candidates of one of the parties.

22.10(2) *Offices.* The following offices shall each have two candidates for each party. Candidate names shall be rotated as required by Iowa Code section 43.28.

- a. U.S. Senator
- b. U.S. Representative
- c. Governor
- d. Secretary of State
- e. Auditor of State
- f. Treasurer of State
- g. Secretary of Agriculture
- h. Attorney General
- i. State Senator
- j. State Representative
- k. County Supervisor (vote for no more than three of six candidates)
- l. County Treasurer
- m. County Recorder
- n. County Attorney
- o. Township Clerk
- p. Township Trustee

22.10(3) *Write-in votes.* Spaces for write-in votes shall be provided for each office on the ballot. The number of spaces shall equal the number of persons to be elected to the office.

721—22.11(52) Test general election. The ballots for the test general election shall include the following:

22.11(1) Offices. In the test general election all of the above offices shall be included with the addition of candidates for lieutenant governor to be voted for jointly with each candidate for governor. Each political party and nonparty political organization shall have one candidate for each office that appeared on the primary ballot, except county supervisor, which shall have three candidates for each party and nonparty political organization. Names of candidates for county supervisor shall be rotated as required by Iowa Code section 49.31, subsection 2.

The following nonpartisan offices shall also be included on the ballot with the heading “Nominated by Petition”:

- a. Regional Library Trustee
- b. County Public Hospital Trustee
- c. Soil and Water Conservation District Commissioners
- d. Agricultural Extension Council

22.11(2) Judicial ballot. Portions of the judicial ballot may be printed separately if necessary.

- a. Supreme Court (five justices)
- b. Appeals (four judges)
- c. District Court (six judges)
- d. District Associate Judges (three judges)

22.11(3) Public measures.

- a. Constitutional Amendments (two)
- b. Local public measures (three)

22.11(4) Straight party voting for three political parties and five nonparty political organizations.

22.11(5) Write-in votes. Spaces for write-in votes shall be provided for each office on the ballot. The number of spaces shall equal the number of persons to be elected to the office. This does not include judges standing for retention.

721—22.12(52) Report. The examiners shall prepare a report explaining the examination and test procedures followed in evaluating the voting equipment submitted for examination. The report shall clearly state whether the voting equipment has been approved or denied approval for use in Iowa.

22.12(1) Approval permits use. If the report states that the equipment has been approved for use, it may be adopted for use at elections.

22.12(2) Copy filed with the secretary of state. A copy of the report shall be filed with the secretary of state. A copy of the application of the vendor and all other documents submitted by the vendor shall be filed with the report and retained by the secretary of state.

721—22.13(52) Notification. The examiners shall promptly notify the vendor of their decision and shall provide the vendor with a copy of their report.

721—22.14(52) Denial of certification. If the examiners find that the equipment does not meet the requirements prescribed by the Code of Iowa and the Iowa Administrative Code, the examiners shall deny certification to the equipment. The report of the board shall specify the reasons for the denial, as well as all areas in which the equipment complied with the requirements of the law. Certification may be denied for any of the following reasons:

22.14(1) The absence of any feature required by Iowa Code section 52.5 or 52.7 for voting machines, or section 52.26 for electronic voting systems.

22.14(2) Failure to pay the examiners' fees and expenses, or the fees of any consultant mutually agreed upon by the examiners and the vendor.

22.14(3) Failure to provide the examiners with a complete application as required by rule 22.5(52).

22.14(4) Failure of the equipment to produce accurate results in one or both of the test elections. The test groups of ballots shall be tabulated manually to determine the expected outcome of each test election. If the equipment fails to reproduce exactly the results of the manual tabulation, the system shall not be approved for use, unless it can be demonstrated that the manual tabulation was in error and the machine tabulation was accurate.

721—22.15(52) Application for reconsideration. Following denial of certification a vendor may make the necessary modifications to the system and apply for reconsideration. Aspects of the equipment which were approved in the initial application do not need to be reexamined unless the examiners find that the modifications may have affected the ability of the equipment to comply in other areas. If certification was denied for the reasons cited in 22.14(1) or 22.14(4), both test elections must be completed satisfactorily, or approval shall not be granted.

721—22.16(52) Appeal. If the vendor believes the denial of certification is in error, the vendor must file written exceptions with the examiners within 30 days after issuance of the report. The examiners will issue a response to the exceptions within 30 days after filing of the exceptions. A vendor who is aggrieved or adversely affected by a denial after a ruling on exceptions may seek judicial review pursuant to Iowa Code section 17A.19.

721—22.17(52) Reexamination following changes in equipment. The vendor shall notify the examiners of any changes in the equipment including changes in tabulation software, firmware, and hardware. The vendor shall provide to the examiners the following information when requesting recertification:

22.17(1) Description of the changes made.

22.17(2) Reports of test results conducted for other states following the modifications to the equipment.

22.17(3) Copies of manuals, instructions, advertisements and other documents required to be included with the application that have been modified since the original application was submitted.

22.17(4) A new request for examination and test as required by subrule 22.5(10).

721—22.18(52) Rescinding certification.

22.18(1) Grounds for rescinding certification. Certification may be rescinded if it is found that:

a. The equipment does not produce accurate results and reports as required for an election.

b. Material changes have been made in the equipment that do not comply with requirements for certification.

c. Equipment which has been certified for use has not been adopted by any county in Iowa, or is no longer used by any county in Iowa, and is no longer available for purchase from the manufacturer. The examiners may rescind certification of such voting equipment without a complaint or contested case proceedings.

d. Any other grounds that may materially affect delivery or performance of the equipment.

22.18(2) Procedure for rescinding certification. Complaints regarding voting equipment certified for use in Iowa shall be filed with the secretary of state. The examiners shall review all complaints and may initiate a contested case to rescind certification on any ground listed above. The contested case may be conducted before the examiners or before an administrative law judge. A contested case for rescinding certification shall be conducted, to the extent applicable, in accordance with the procedural rules specified in 481—Chapter 10, Iowa Administrative Code.

22.18(3) Suspension of certification. If the administrative law judge hearing the contested case, or the examiners, as the case may be, find that the voting equipment can be modified to correct the deficiency, certification may be suspended until the deficiency is corrected. If it is found that the deficiency is limited to a specific flaw not present in all models of the equipment, the suspension may be limited to the deficient models. While certification is suspended, the equipment may not be used for any election.

After the required modifications have been made the vendor may apply for reexamination of the equipment following the procedure described in rule 22.17(52).

22.18(4) Further use prohibited. If certification of voting equipment is rescinded without qualification, no further use shall be permitted by any county.

These rules are intended to implement Iowa Code sections 17A.12, 21.4, 21.5, 52.4, 52.5, 52.6, 52.7, 52.26, and 70A.9.

721—22.19(52) Examination of voting booths—application. Any vendor who wishes to apply for approval of a voting booth for use in the state of Iowa shall apply to the secretary of state for an appointment with the examiners. The application shall include five copies of each of the following:

22.19(1) History of the voting booth to be examined. This history shall include a complete description of the voting booth to be examined, descriptions of any previous models of the voting booth, the date the voting booth to be examined went into production, and a list of jurisdictions which have used the voting booth.

22.19(2) Copies of all manuals developed for use with the voting booth including, but not limited to, technical manuals for repair and maintenance of the voting booth, assembly manuals for election officials, and any other written documents prepared by the vendor that describe the operation, use and maintenance of the voting booth.

22.19(3) Copies of the reports of any test authority who has examined the voting booth in conjunction with certification requirements of other states.

22.19(4) Reports of the certifying authorities of any other states who have examined the voting booth, whether or not the voting booth was approved for use.

22.19(5) Brochures, photographs and advertising material used to encourage sales of the voting booth.

22.19(6) Manuals for the use and maintenance of any components of the voting booth that are not manufactured by the vendor.

22.19(7) A list of jurisdictions using the booth.

22.19(8) Request for examination. The following form shall be filed with the materials required above:

STATE OF IOWA
REQUEST FOR EXAMINATION OF VOTING BOOTH
BY THE BOARD OF EXAMINERS FOR VOTING MACHINES
AND ELECTRONIC VOTING SYSTEMS

Name of model(s) to be examined: _____
Vendor or Commissioner: _____
Address: _____
City, State, Zip: _____
Telephone number: _____
Person to contact: _____

I request that the Iowa Board of Examiners for Voting Machines and Electronic Voting Systems examine the voting booth(s) described above and in the attached documents for the purpose of determining whether this voting booth will be approved for use in the State of Iowa. If required to do so, I will pay the costs of this examination, including the examiners' fees and expenses. I understand that the examiners' fee of one hundred fifty dollars (\$150) each is to be paid before the examination begins. If more than one vendor presents booths to be examined, I understand that the examiners' fees will be divided equally among the vendors. (Fees shall be waived for examination of voting booths for county commissioners.)

I understand that a production model of the voting booth submitted for certification shall be made available to the examiners.

I agree to submit subsequent models of this voting booth for further examination if any changes are made following its approval for use. I understand that certification will be denied or rescinded if the examiners determine that this voting booth does not meet the requirements of the Code of Iowa and Iowa Administrative Code.

I understand that voting booths that have not been approved by the examiners cannot be used at any election in the State of Iowa.

Signed: _____
Title: _____

State of _____
County of _____

Signed and sworn to (or affirmed) before me on _____ (date)
by _____.

NOTARY PUBLIC (or title of other officer
authorized to perform notarial acts)

721—22.20(52) Review of application by examiners. Upon receipt of the application, the secretary of state shall immediately forward copies of the application to each of the examiners. The examiners shall review the application and within seven days a date shall be set for the examiners to meet and examine the voting booth. If additional information is needed by the examiners, they may delay setting a date for the examination pending the submission of the requested materials.

721—22.21(52) Contact other users. The examiners shall contact a representative sample of the users of the voting booth to determine the nature of the experience of other users.

721—22.22(52) Criteria for approval. Voting booths must meet the following criteria:

1. Voting booths must provide for voting in secrecy.
2. Voting booths must be sturdy.
3. Voting booths must have a light, or be adaptable to having lighting attached if needed.
4. Handicapped accessible booths must accommodate voters seated either in wheelchairs or in chairs provided at the precinct.

721—22.23(52) Report. The examiners shall prepare a report clearly stating whether the voting booth has been approved or denied approval for use in Iowa.

22.23(1) *Approval permits use.* If the report states that the voting booth has been approved for use, it may be adopted for use at elections.

22.23(2) *Copy filed with the secretary of state.* A copy of the report shall be filed with the secretary of state. A copy of the application of the vendor and all other documents submitted by the vendor shall be filed with the report and retained by the secretary of state.

721—22.24(52) Notification. The examiners shall promptly notify the vendor of their decision and shall provide the vendor with a copy of their report.

721—22.25(52) Denial of certification. If the examiners find that the voting booth does not meet the requirements prescribed by the Code of Iowa and the Iowa Administrative Code, the examiners shall deny certification to the voting booth. The report of the board shall specify the reasons for the denial, as well as all areas in which the voting booth complied with the requirements of the law. Certification may be denied for any of the following reasons:

22.25(1) Failure to meet criteria established by rule 22.22(52).

22.25(2) Failure to pay the examiners' fees and expenses, if required.

22.25(3) Failure to provide the examiners with a sufficient application as required by rule 22.19(52).

721—22.26(52) Application for reconsideration. Following denial of certification a vendor may make the necessary modifications to the voting booth and apply for reconsideration. Aspects of the voting booth which were approved in the initial application do not need to be reexamined unless the examiners find that the modifications may have affected the ability of the voting booth to comply in other areas.

721—22.27(52) Appeal. If the vendor believes the denial of certification is in error, the vendor must file written exceptions with the examiners within 30 days after issuance of the report. The examiners will issue a response to the exceptions within 30 days after filing of the exceptions. A vendor who is aggrieved or adversely affected by a denial after a ruling on exceptions may seek judicial review pursuant to Iowa Code section 17A.19.

721—22.28(52) Reexamination following changes in voting booth. The vendor shall notify the examiners of any changes in the voting booth and shall provide to the examiners the following information when requesting recertification:

22.28(1) Description of the changes made.

22.28(2) Reports of test results conducted for other states following the modifications to the voting booth.

22.28(3) Copies of manuals, instructions, advertisements and other documents required to be included with the application that have been modified since the original application was submitted.

22.28(4) A new request for examination as required by subrule 22.19(8).

721—22.29(52) Rescinding certification.

22.29(1) *Grounds for rescinding certification.* Certification may be rescinded if it is found that:

a. The voting booth does not meet the criteria for approval established in rule 22.22(52).

b. Material changes have been made in the voting booth that do not comply with criteria for approval.

c. A voting booth which has been certified for use has not been purchased by any county in Iowa, or is no longer used by any county in Iowa, is no longer available for purchase from the manufacturer. The examiners may rescind certification of such voting booths without a complaint or contested case proceedings.

22.29(2) *Procedure for rescinding certification.* Complaints regarding voting booths certified for use in Iowa should be filed with the examiners. The examiners shall review all complaints and may initiate a contested case to rescind approval on any ground listed above. The contested case may be conducted before the examiners or before an administrative law judge. A contested case for rescinding approval shall be conducted, to the extent applicable, in accordance with the procedural rules specified in 481—Chapter 10, Iowa Administrative Code.

22.29(3) *Suspension of certification.* If the administrative law judge hearing the contested case, or the examiners, as the case may be, find that the voting booth can be modified to correct the deficiency, certification may be suspended until the deficiency is corrected. If it is found that the deficiency is limited to a specific flaw not present in all models of the voting booth, the suspension may be limited to the deficient models. While certification is suspended, the voting booth may not be used for any election.

After the required modifications have been made, the vendor may apply for reexamination of the voting booth following the procedure described in rule 22.28(52).

22.29(4) *Further use prohibited.* If certification of voting booth is rescinded without qualification, no further use shall be permitted by any county.

Rules 22.19(52) to 22.29(52) are intended to implement Iowa Code sections 17A.19, 49.25(3), 52.5, 52.6, and 52.26.

721—22.30 to 22.39 Reserved.

721—22.40(52) Public testing of voting machines. All voting machines shall be tested publicly before use at any election, as required by Iowa Code section 52.9.

22.40(1) The machine shall be inspected to determine that the machine has been prepared properly for the election at which it will be used. The following information shall be verified:

a. Each machine has the correct ballot labels or strips for the election and the precinct in which it will be used.

b. All ballot strips or labels are aligned with the correct levers or buttons.

c. All counters are set at zero before the beginning of the test.

22.40(2) The machine shall be tested to determine the following:

a. The lever or button to be used to cast votes for each candidate operates correctly.

b. The voter cannot cast votes for more candidates for any office than the number to be elected.

c. The voter may change any vote cast (except a write-in vote) before pressing the button or lever to record the voter's ballot.

d. All unassigned buttons or levers are locked out or will not operate to cast votes.

e. The machine records all votes cast and no others. A written tally of the test votes shall be prepared before the test. The results of the test voting shall be recorded. The results of the machine tabulation shall be printed and compared with the test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election. Both the test plan and the results shall be kept as part of the record of the election, as required by Iowa Code section 50.19.

f. The voter may cast as many write-in votes for each office on the ballot as there are positions to be filled. The write-in mechanism works correctly.

g. For primary elections: The voter may cast votes for the candidates of only one political party.

h. For general elections: The straight party mechanism casts one vote for each candidate of the designated political party and casts no other votes. The voter may override a straight party vote by removing a vote cast for any candidate and then may vote for another candidate.

22.40(3) Following the test the machine shall be inspected to determine that:

a. All counters have been returned to zero.

b. All required locks or seals are in place.

c. The machine is ready for operation at the polls.

This rule is intended to implement Iowa Code chapter 52.

721—22.41(52) Public testing of optical scan systems. All automatic tabulating equipment shall be tested before use at any election, as required by Iowa Code sections 52.35 and 52.38.

22.41(1) The equipment shall be inspected to determine whether it has been prepared properly for the election at which it will be used. The following information shall be verified:

a. The correct program cartridge is in place for the election and the precinct or precincts in which it will be used.

b. The appropriate ballots are available for the test of each automatic tabulating device to be used in the election.

c. All counters are set at zero before beginning the test.

22.41(2) Each automatic tabulating device shall be tested to determine the following:

a. The device and its programs will accurately tabulate votes for each candidate and question on the ballot.

b. Votes cast for more candidates for any office than the number to be elected will result in the rejection of all votes cast for that office on that ballot. Votes properly cast for other offices on the same ballot shall be counted.

c. The tabulating equipment records all votes cast and no others. A written tally of the test votes shall be prepared before the test. The results of the test voting shall be recorded. The results of the machine tabulation shall be printed and compared with the test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election. Both the test plan and the results shall be kept as part of the record of the election, as required by Iowa Code section 50.19.

d. The voter may cast as many write-in votes for each office on the ballot as there are positions to be filled. The write-in votes are reported correctly.

e. For primary elections: The tabulating equipment accurately records votes cast for all political parties.

f. For general elections: The straight party votes are recorded as one vote for each candidate of the designated political party, and no other votes are recorded. The voter may override a straight party vote by voting for any candidate not associated with that political party. For offices to which more than one person will be elected, if a voter has chosen to override a straight party vote, only the candidates whose names are marked shall receive votes.

22.41(3) Following the test, the tabulating equipment shall be inspected to determine that:

a. All counters have been returned to zero.

b. All required locks or seals are in place.

c. The automatic tabulating equipment is ready for operation at the election.

22.41(4) Test deck submitted by observers. Any person who is present at the public test may mark ballots to be used to test the voting equipment. The following conditions apply:

a. Not more than ten ballots may be submitted by any person.

b. Only official ballots provided by the commissioner at the test shall be used. The commissioner may provide sample ballots or photocopies of sample ballots to anyone upon request.

c. The preparer shall provide a written tally of the test deck.

d. The results of the machine tabulation shall be printed and compared with the preparer's tally. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election.

e. The test decks, the preparer's tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

This rule is intended to implement Iowa Code chapter 52.

721—22.42 to 22.49 Reserved.

ELECTRONIC VOTING SYSTEMS

721—22.50(52) Electronic voting systems—use for absentee voting. As an alternative to paper absentee ballots, the board of supervisors of any county may authorize, purchase and order the use of an electronic voting system for absentee voting, regardless of the method used for voting at the regular precinct polling places within the county.

22.50(1) Ballot cards for use with electronic voting systems. The ballot cards used for absentee voting in conjunction with an electronic voting system shall be prepared in accordance with the provisions set out in Iowa Code section 43.26, for primary elections, Iowa Code section 49.42, for general elections, Iowa Code section 49.45, for constitutional amendments or other public measures, and in accordance with any relevant provisions of any other statutes which specify the form of ballots for other types of elections. The ballot stub and the ballot card shall not contain any common identifying mark, number or symbol which would permit them to be matched after having been detached by the special precinct election board.

22.50(2) The use of electronic voting systems using ballot labels and ballot cards as defined in Iowa Code section 52.1, subsection 2, paragraphs “e” and “f,” shall be in accordance with the procedures set out in this subrule. To each qualified elector who applies for an absentee ballot as provided in Iowa Code section 53.2, the commissioner shall provide the following:

- a. A ballot card mounted on a backing of styrofoam or other similar material to permit convenient and efficient punching of holes in the ballot card.
- b. A disposable punching device for use in punching the holes in the ballot card.
- c. A printed paper or sample ballot showing the offices, candidates and the questions to be voted upon and designating the number to be punched when voting for each candidate or question.
- d. Absentee voting instructions in substantially the form set out in 721—subrule 10.2(1).
- e. A ballot card envelope of sufficient size and construction that when the ballot card is inserted in it all portions indicating voting marks are hidden from view. Instructions shall be printed on the ballot card envelope and shall include the following:

1. On the outside flap:

After voting, insert ballot card with stub exposed into envelope pocket and close flap.
To cast write-in ballot, see inside.

2. Inside the envelope:

Write-in ballot. To vote for a person whose name is not on the ballot, write in BOTH the title of the office and the candidate’s name on the lines below.

OFFICE

CANDIDATE NAME

(Additional lines)

Write-in ballots shall be printed inside the ballot envelope so that write-in votes are hidden from view when the flap is closed.

f. An envelope containing an affidavit to be completed by the voter. The affidavit shall be in the same form as Form 3-B (Rev. 87), Absent or Disabled Voter’s Affidavit, as prescribed by 721—Chapter 21, Iowa Administrative Code.

g. An envelope designated as “Return Carrier Envelope” for returning the voted ballot to the commissioner.